IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8693 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MUKTABEN WD/O S.K. DABHI

Versus

G.S.R.T. CORPORATION

Appearance:

MR MP UPADHYAY FOR MR MUKESH H RATHOD for Petitioners

MR HARDIK C RAWAL for Respondent No. 1, 2

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 17/02/2001

ORAL JUDGEMENT

1. The petitioners seek a direction on the respondent - State Road Transport Corporation that they should appoint the petitioner No.2 in any job or post of the Corporation from the date of his reaching 18 years of age on 3-2-1990 on the basis of item No.30 of the

settlement dated 21-12-1989 by way of compassionate appointment.

2. According to the petitioners, Shamjibhai Dabhi was working as a driver with the Corporation and he passed away in the course of employment on 22-11-1975 due to an accident. At that time, the petitioners No.2 and 3 who were his sons, were minors. The petitioner No.2 was 3 years and 9 months of age. As per the orders of the Corporation dated 18-6-1973, it was decided that if any employee of the Corporation dies or becomes permanently disable while in service and there is no other earning member in the family, one member of his family can directly apply for suitable post in the S.T. Corporation when names for such vacancy are called for from the Employment Exchange, subject to the condition that his name is registered in the Employment Exchange and is on the live Register of the Employment Exchange.

3. It was argued on behalf of the petitioners that, as per the settlement, clause 30 of which is reproduced in paragraph 4 of the petition, the petitioner was entitled to be considered for a compassionate appointment in the Corporation, and that the Corporation had acted arbitrarily in not issuing the compassionate appointment to the petitioner No.2, who had made an application for the purpose on 3-2-1990 when he had reached the age of 18 years.

4. The Corporation had, by its order dated 22-1-1990 at Annexure `I' to the petition, with reference to the petitioner's earlier application dated 31-5-1989, pointed out to the petitioner that, as per the Rules existing at the relevant time, the petitioner was not eligible for such appointment.

5. It will be noticed from item No.30 of the settlement arrived at with the recognised Unions on 21-12-1989 that, as per the settlement, compassionate appointment could be given to a minor of the deceased employee if he attained majority within 10 years from the date of the employee's death, and provided he made an application within one year from the date on which he attained majority. The petitioner made an application fifteen years after the death of his father and had not reached majority within ten years as contemplated by the settlement. Therefore, the petitioner was not entitled to the benefit of item No.30 of the said settlement for the purpose of being considered for compassionate appointment.

6. In State of U.P. v. Paras Nath, reported in (1998) 2 SCC 412, the Supreme Court held that the purpose of providing employment to a dependant of a government servant dying in harness in preference to anybody else, is to mitigate the hardship caused to the family of the employee on account of his unexpected death while still in service. To alleviate the distress of the family, such appointments are permissible on compassionate grounds provided there are Rules providing appointment. None of these considerations can operate when the application is made after a long period of time, such as seventeen years in the case before the Supreme Court.

6.1 In Haryana State Electricity Board v. Naresh Tanwar and another, reported in (1996) 8 SCC 23, the Supreme Court held that compassionate appointment cannot be granted after a long lapse of reasonable period.

6.2 In Umesh Kumar Nagpal v. State of Haryana and other, reported in (1994) 4 SCC 138, it was held by the Supreme Court that consideration for compassionate appointment was not a vested right which can be exercised at any time in future, and that compassionate appointment cannot be granted after a lapse of reasonable period which must be specified in the Rules.

7. In the above view of the matter, the petitioners have not made out any case for petitioner No.2 being considered for compassionate appointment. This petition is therefore rejected. Rule is discharged with no orders as to costs.

[R.K.ABICHANDANI, J.]

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